



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/470,424 06/06/95 YOKOMIZO

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020457 PM82/0607
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EXAMINER

BEHREND, H

ART UNIT

PAPER NUMBER

3641

DATE MAILED:

06/07/00

34

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/470424

Applicant(s)

Yokomizo et al

Examiner

Behrend

Group Art Unit

3641

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/27/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 24, 26, 29, 40-43, 50, 52-60 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 24, 26, 29, 40-43, 50, 52-60 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 3641

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 24, 26, 29, 40-43, ⁵⁰52, 53, 56-59 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is ^{no} support in the original disclosure (including page 15 line 33 to page 16 line 3 (see page 6 of the 3/27/00 response)) for the amendments to claims 24, 52 and 56

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 61256282 in view of Sofer, for the reasons set forth in section 3 of the 8/25/99 Office action.

Applicants arguments are unpersuasive. There is no factual basis for applicants attempt to change the teachings of Japan 61256282 into something other than what they actually are.

The translation provided by the examiner is the Official translation.

The paragraph bridging pages 8 and 9 of the English language translation of Japan 61256282 clearly states that the fuel assembly remains in the core for several cycles and that recent boiling water atomic reactors are designed so that the fuel assembly is not moved by shuffling!

Applicant has not shown that the references do not teach what the examiner has stated they teach nor, has applicant shown that the examiner's reasons for combining the teachings of the references, is improper or in error.

6. Claims 24, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Japan 0220686 or Japan 0031090 in view of Sofer, for the reasons set forth in section 3 of the 8/25/99 Office action, alone or taken with Japan 61256282.

Applicants arguments are unpersuasive. The examiner does not agree with applicants misinterpretation of the teachings of either primary reference.

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Said primary references each clearly teach that the screen only is removed for the third and subsequent portions of the fuel cycle (not the fuel assembly itself is removed).

In any event, if necessary, Japan 61256282 may be relied on for a showing that it is old in the art and hence obvious, to leave the fuel assembly in the core and merely change the amount of flow therethrough between a first and a second part of a fuel cycle, without replacing or even shuffling the fuel assembly.

Note the discussion of applicants arguments in section 5 above.

7. Claims 24, 26, 29, 40-43, 50, 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matzner in view of Sofer taken with Japan 61256282, for the reasons set forth in section 5 of the 8/25/99 Office action.

Note the discussion of applicants arguments in section 5 above.

8. Claims 24, 26, 29, 40-43, 50, 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matzner in view of Sofer and any of Japan 0220686, Japan 0031090 or Japan 61256282 as applied to claims 24, 26, 29, 40-43, 50, 52-60 above, and further in view of applicants own admission of prior art in the specification (e.g. see page 25).

Claims such as claim 53, refer to use of particular flow rate percentages. However, the use of the claimed flow rate percentages in the primary reference would have been prima facie obvious in view of the teachings thereof in the admitted prior art in the specification.

9. Claims 24, 26, 29, 40-43, 50, 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 61256282, in view of Sofer as applied to claims 24, 50 above, and

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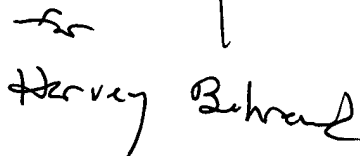
further in view of Matzner, or Kumpf, for the reasons set forth in section 8 of the 8/25/99 Office action.

10. Claims 24, 26, 29, 40-43, 50, 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Japan 0220686 or Japan 0031090, in view of Sofer alone or with Japan 61256282 as applied to claims 24, 50 above, and further in view of Matzner, of Kumpf, for the reasons set forth in section 8 of the 8/25/99 Office action..

11. Any inquiry concerning this communication should be directed to Mr. Behrend at telephone number (703) 305-1831.

Behrend/cw
June 5, 2000


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER


Harvey Behrend